OPERS Ohio Public Employees Retirement System
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Sent via e-mail to: FFIEC-Comments@fdic.gov

June 2, 2005

Ms. LaJuan Williams-Dickerson, Program Coordinator
Federal Financial Institutions Examination Council
3501 Fairfax Drive
Room 3086
Arlington, VA 22226

Re: Interagency Advisory on the Unsafe and Unsound Use of Limitation of Liability Provisions and Certain Alternative Dispute Resolution Provisions in External Audit Engagement Letters

Dear Ms. Williams-Dickerson:

The Ohio Public Employees Retirement System ("OPERS") is a more than $64.5 billion fund serving three quarters of a million Ohioans, making the system the 10th largest state pension fund in the U.S. We are writing in response to the Federal Financial Institutions Examination Council ("FFIEC") request for comments on its proposed interagency advisory on the unsafe and unsound use of limitation of liability provisions and certain alternative dispute resolution provision by auditors in external audit engagement letters.

OPERS applauds the FFIEC for this proposed guidance on the important issue of auditor independence. As the advisory correctly notes, such contractual provisions that limit external auditors' liability or require waiving in advance the right to a jury trial may weaken an external auditor's objectivity, impartiality, and performance. In addition, the Securities and Exchange Commission previously advised on December 13, 2004 that when an accountant and his or her client enter into an agreement of indemnity which seeks to provide the accountant immunity from his or her own negligent acts, the accountant is not independent. Moreover, on December 14, 2004 the Public Company Accounting Oversight Board ("PCAOB") proposed a new standard to strengthen the auditor independence rules.

Investor confidence has been shaken by the number of recent large-scale accounting fraud cases that have involved financial institutions beginning with Enron. The advisory correctly notes that a properly conducted external audit should provide an independent and objective view of the reliability of financial statements. When an external auditor attempts *in advance* to limit its audit client's legal protections in the event there is a subsequent dispute about the audit, the auditor's independence and objectivity is called into question. As the advisory concludes, we also believe boards of directors, audit committees, and management should ensure that they do not enter any agreement that contains external auditor limitation of liability provisions with respect to financial statement audits.

Thank you for providing us with this opportunity to comment. Should you need any additional information, please contact Cynthia L. Richson, OPERS Corporate Governance Officer and a member of the PCAOB Standing Advisory Group, at 614.222.0398.

Sincerely,

Laurie Fiori Hacking
Executive Director